

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RE/MAX International, Inc.,

Plaintiff,

v.

TREND SETTER REALTY, LLC,
a Texas limited liability company;

PAVNOUTY ABRAHAM, an individual;

and

DEBORAH N. MILLER, an individual

Defendants.

CIVIL ACTION NO. 4:07-CV-02426

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RE/MAX INTERNATIONAL, INC.)
)
Plaintiff,)
)
)
)
VS.) CIVIL ACTION NO.
) 4:07-CV-02426
TREND SETTER REALTY, LLC,)
A Texas Limited Liability)
Company;)
)
PAVNOUTY ABRAHAM, an)
individual; and)
)
DEBORAH N. MILLER, an)
individual,)
)
Defendants.)

ORAL DEPOSITION OF PAVNOUTY ABRAHAM
MAY 28, 2008
Volume 1 of 2

ORAL DEPOSITION OF PAVNOUTY ABRAHAM, produced as a
witness at the instance of the PLAINTIFF AND
COUNTERDEFENDANT, RE/MAX INTERNATIONAL, INC., and duly
sworn, was taken in the above-styled and numbered cause
on the 28th day of May, 2008, from 9:14 a.m. to 4:20
p.m., before Misty Fondren Clements, CSR in and for the
State of Texas, reported by machine shorthand, at the
Law Offices of Greenberg Traurig, L.L.P., 1000 Louisiana

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	RE/MAX International, Inc.		

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1 Simply, you know, let him know that that's the case and
 2 we'll take a short break.
 3 A. Sure.
 4 Q. If there's any other reason you need to take a
 5 short break or whatever, please let me know and we'll go
 6 off the record and take a break. We'll probably try to
 7 take a break just so that people don't get too -- too
 8 tired; you know, once every hour, hour and a half, kind
 9 of a natural stopping point.
 10 A. That's fine.
 11 Q. Okay. Are you -- are you represented by
 12 counsel today?
 13 A. Yes.
 14 Q. And who are you represented by?
 15 A. Mayur Patel.
 16 Q. And that's the gentleman that's sitting to
 17 your left; correct?
 18 A. Yes.
 19 Q. Okay. And are you appearing on behalf of
 20 Trend Setter Realty, L.L.C. today?
 21 A. Yes.
 22 Q. And I believe you're also appearing on your
 23 own behalf, individually; correct?
 24 A. Yes.
 25 Q. Okay. We're combining the two depositions to

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1 have things proceed efficiently.
 2 A. That's fine.
 3 Q. Okay. I'm going to have the court reporter
 4 mark some exhibits here.
 5 (Exhibit Nos. 1 and 2 marked.)
 6 Q. (By Mr. Posthumus) Okay. I'm going to have
 7 you look at Exhibit 2 first.
 8 A. Okay.
 9 Q. And have you -- have you seen a copy of this
 10 before today?
 11 A. Yes.
 12 Q. Okay. And this is your notice of deposition
 13 of -- of -- of you, and because of scheduling issues,
 14 we've rescheduled you to 9:00 a.m. on May 28th.
 15 A. Sure.
 16 Q. Okay. And you're appearing in connection with
 17 the above referenced matter individually pursuant to
 18 this notice; correct?
 19 A. Yes.
 20 Q. Okay. And then have a look at Number --
 21 Abraham Exhibit 1.
 22 A. Okay.
 23 Q. And have you seen this before today?
 24 A. Yes.
 25 Q. And this is the deposition notice of Trend

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1 Setter Realty, L.L.C. And so the record's clear, you're
 2 appearing on behalf of Trend Setter Realty, L.L.C. in
 3 connection with the categories of -- or deposition
 4 topics that are identified in Schedule A of this
 5 exhibit; correct?
 6 A. Yes.
 7 Q. Okay. And are you prepared today to discuss
 8 the 23 categories that are identified in Exhibit 1?
 9 A. Yes.
 10 Q. What is your relationship with Trend Setter
 11 Realty, L.L.C.?
 12 A. I'm the general partner of the L.L.C.
 13 Q. And are there members of the L.L.C.?
 14 A. I'm the only member.
 15 Q. And when you say you're "the only member," it
 16 would be you, individually, as the member; correct?
 17 A. Yes.
 18 Q. And throughout the history of Trend Setter
 19 Realty, L.L.C., have you been the only member?
 20 A. Yes.
 21 Q. When did you start -- if you're okay, I'll
 22 just refer to it as Trend Setter.
 23 A. Yeah, that's fine.
 24 Q. Okay. When did you start Trend Setter?
 25 A. We got the L.L.C. on March of '05 and started

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1 doing business, I would say, around March or April, the
 2 end of March. I would say April 1st.
 3 Q. And so since April 1st, 2005, Trend Setter has
 4 operated continuously?
 5 A. Yes.
 6 Q. Okay. And it's operated continuously as a
 7 real estate brokerage?
 8 A. Yes.
 9 Q. Has it had any other businesses besides real
 10 estate brokerage?
 11 A. No.
 12 Q. Okay. Now, you've identified yourself as the
 13 general partner. Is there -- is there an understanding
 14 that you have that -- as to what that means or what the
 15 responsibilities are as general partner?
 16 A. I didn't understand the question.
 17 Q. Okay. You said you're the only member of the
 18 L.L.C.; correct?
 19 A. Yes.
 20 Q. Okay. When you said you're a general partner,
 21 is that different in your mind from being a member of
 22 the L.L.C.?
 23 A. I don't know the totality of your question.
 24 I'm -- I'm the sole owner of the company and the only
 25 member as you asked. You asked me if there was any

4 (Pages 10 to 13)

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1 Q. When you say, "the logo," you're referring to
 2 something similar to what the sign looks like?
 3 A. Similar to Exhibit -- similar to Exhibit 4.
 4 Q. Okay. So when you say, "Exhibit 4," when you
 5 say, "Similar," what -- what was -- what was not --
 6 A. No, identical to it.
 7 Q. Identical to Exhibit 4?
 8 A. Yes.
 9 Q. And that was on the door?
 10 A. That was on the door and on the lobby of the
 11 office.
 12 Q. The lobby, what do you mean by "the lobby"?
 13 A. The lobby for Trend Setter.
 14 Q. In the lobby inside the suite?
 15 A. Inside the suite, yes.
 16 Q. Was there any -- and so -- and you recently --
 17 you just testified that Trend Setter moved to a building
 18 next door?
 19 A. Yes.
 20 Q. Okay. And so is that an interior entry
 21 location to a suite?
 22 A. Yes.
 23 Q. And then did you have similar signage on the
 24 front door there or has that changed?
 25 A. No. It's -- will be placed sometime soon.

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1 We're negotiating the name to go on top of the building
 2 of where we're at.
 3 Q. Okay. But I'm -- I'm only asking about --
 4 A. What is it today?
 5 Q. Yeah, today.
 6 A. Just the print, just the print on --
 7 Q. Okay. So it --
 8 A. -- the glass door.
 9 Q. -- says Trend Setter Realty in print on the
 10 front door?
 11 A. Yes.
 12 Q. The first business location for Trend Setter
 13 Realty, do you recall what the square footage of that
 14 location was?
 15 A. Oh, it changed. We moved a few times.
 16 Q. What about at the start?
 17 A. At the start, it was about 1,200.
 18 Q. 1,200 square foot?
 19 A. Square feet, yes.
 20 Q. Okay. And then right before you moved to the
 21 new business location, the adjoining building, what was
 22 the square footage at that point?
 23 A. About 3,000 square feet.
 24 Q. Okay. And then at the -- the new business
 25 location in the adjoining building, what's the square

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1 footage of that particular office?
 2 A. About 3,500 square feet.
 3 Q. 3,500?
 4 A. (Witness nods head.)
 5 Q. Is that your only office location in the
 6 Houston area?
 7 A. Yes.
 8 Q. Now, based on your website, you have an office
 9 location in the San Antonio area?
 10 A. Yes.
 11 Q. When did you start that location?
 12 A. I would say a year ago.
 13 Q. Okay.
 14 A. About a year ago.
 15 Q. Besides the San Antonio business location and
 16 the Houston location, which you just talked about, do
 17 you have any other business locations for Trend Setter
 18 Realty?
 19 A. I don't, but some of the agents do. Some of
 20 the agents might have a Galveston office and they pay
 21 all the dues at Galveston; therefore, we give them the
 22 rights to use the signage and so on.
 23 Q. Okay.
 24 A. But that's not our overhead. That's not part
 25 of our operation.

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1 Q. Okay. And we'll get to that a little bit
 2 later --
 3 A. Okay.
 4 Q. -- all right?
 5 But in terms of the business locations that
 6 Trend Setter Realty operates, besides the Houston
 7 business location and the San Antonio business location,
 8 there's no other business locations that Trend Setter
 9 Realty operates; correct?
 10 A. Yes.
 11 Q. Okay. So we're, I think, up to about April
 12 '05 now; right? You've opened your doors for Trend
 13 Setter Realty?
 14 A. Yes.
 15 Q. Okay. And so who's the broker owner at this
 16 point?
 17 A. When we opened up, Debbie Miller was an agent
 18 and then she become a broker and joined the -- she was
 19 the only broker of record that we ever had.
 20 Q. Okay. So Debbie Miller was an agent at the --
 21 on April 1st, 2005?
 22 A. No. She was an agent at wherever she was.
 23 And then when she joined us to become a broker, she got
 24 her broker license, and then she's the only broker of
 25 record we ever had.

28 (Pages 106 to 109)

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1 Q. Okay. But prior to -- okay, I understand. So
 2 Debbie Miller or Deborah Miller started with Realty --
 3 I'm sorry -- Trend Setter at some point after it opened?
 4 A. No. Debbie Miller -- yeah. I mean, I start
 5 up the whole -- the whole company and everything else,
 6 and then we acquired Debbie Miller to become -- to be
 7 the broker of record.
 8 Q. Right. So that happened at some point after
 9 April 1st, 2005?
 10 A. Some -- somewhere in that time, I don't have
 11 the exact dates.
 12 Q. But prior to Deborah Miller joining as the
 13 broker of record, did you have a broker of record?
 14 A. No. We were just getting things together.
 15 You can't have a broker without a broker of record.
 16 Q. Okay. So you're getting things together. Do
 17 you remember when the -- so did you retain any real
 18 estate agents prior to Deborah Miller becoming broker of
 19 record?
 20 A. You can't.
 21 Q. Okay. So, no, you didn't -- Deborah Miller
 22 becomes broker of record?
 23 A. You have to have a broker of record in order
 24 to retain agents.
 25 Q. Okay. She becomes broker of record and then

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1 you start retaining agents --
 2 A. Yes.
 3 Q. -- correct?
 4 Okay. And she joined sometime after April
 5 1st, 2005, but you're not sure?
 6 A. I don't know the exact date.
 7 Q. But was it soon after that?
 8 A. She starts with us when we first started it.
 9 I mean, that was it.
 10 Q. So probably was in sometime in April or May of
 11 2005. Would that be accurate?
 12 A. I would say between March and May --
 13 Q. Okay.
 14 A. -- if you want a time, but I -- I'm not sure.
 15 Q. Okay. So at this particular time, does --
 16 this time frame, does Deborah Miller -- how is she
 17 compensated? What was the -- what was the arrangement?
 18 A. She was on the payroll.
 19 Q. So she was employed?
 20 A. Yes.
 21 Q. By Trend Setter?
 22 A. Yes.
 23 Q. Okay. And so she's a -- it's a salaried
 24 position?
 25 A. Yes.

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1 Q. Does she have any ownership interest in Trend
 2 Setter?
 3 A. No.
 4 Q. Does she participate in any of the profits of
 5 Trend Setter?
 6 A. No.
 7 Q. Does she have -- or the ability to acquire any
 8 equity interest in Trend Setter?
 9 A. I don't understand.
 10 Q. Over time, let's say, for instance, she meets
 11 certain thresholds. Does she have the ability to
 12 acquire an interest in Trend Setter?
 13 A. Does she have the ability if she produce more,
 14 you mean?
 15 Q. Does she have an option?
 16 A. No.
 17 Q. No options to acquire any ownership interests
 18 in Trend Setter?
 19 A. I got one partner; that's my wife. That's it.
 20 Q. Okay.
 21 A. Seriously.
 22 Q. Okay. So you have -- right. Okay.
 23 So you're the only member, as you've testified
 24 a little bit earlier, and --
 25 A. Yes.

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1 Q. All right. And your wife doesn't participate
 2 in any of the operation of the --
 3 A. Sometime whenever they call sick or somebody
 4 gets drunk or something, but sometime.
 5 Q. Okay. Just she helps out.
 6 A. Yeah, secretary work, nothing else.
 7 Q. Right. Okay. So let's -- what I'd like to do
 8 is -- well, let's -- I want to try to, as best as I can,
 9 sketch out the history of Trend Setter from April 1st,
 10 2005, if I can.
 11 A. Go ahead.
 12 Q. We'll try this and see if it works.
 13 On the website -- I went to the website last
 14 night and I was looking at the roster and it has a star
 15 that says, "Designated member." And the only person
 16 that has a star by their name is Deborah Miller. Is
 17 that --
 18 A. The broker.
 19 Q. That's the designation for broker of record?
 20 A. Yeah, every office, if it has -- I think if it
 21 has a star by it, that means that's -- they are -- they
 22 are the broker of record.
 23 Q. Okay.
 24 A. Not the broker because we have other brokers,
 25 but Debbie would be the broker of record.

29 (Pages 110 to 113)

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1 (Discussion off the record.)
 2 (Recess from 12:00 to 1:17.)
 3 (Exhibit No. 5 marked.)
 4 MR. POSTHUMUS: Let's go back on the
 5 record.
 6 Q. (By Mr. Posthumus) Abraham, you've been
 7 handed what's been marked as Abraham Exhibit 5.
 8 A. Yes.
 9 Q. And I'll represent to you that this is a --
 10 I'll call it a darkened version of what has been
 11 produced as Defendant's 16. You'll see the Defendant's
 12 16 designation at the bottom of the screen and --
 13 A. (Witness reviews document.) Okay.
 14 Q. Okay. And I think you've opened up the
 15 previous version that we've talked to, which was part
 16 of, let's see, Abraham Exhibit 4.
 17 A. Okay.
 18 Q. Is that correct?
 19 A. Yes.
 20 Q. Okay. So --
 21 A. No, this --
 22 Q. No, this is Exhibit 4. No. I'm sorry.
 23 You're right. It's Exhibit 3, Abraham Exhibit 3. Thank
 24 you.
 25 All right. So I want to go through this just

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1 in a little bit more detail because some of the print
 2 that was not legible because of photocopying is now
 3 legible. And by the way, do you have the original of
 4 this document? Is it in your attorney's possession or
 5 in your possession still?
 6 A. I have what you have, copies of these.
 7 Q. Right. But the original, the -- I guess, the
 8 version from which the copy was made that was produced
 9 to us?
 10 A. It's also a copy. Yeah, it -- we can call
 11 that an original. That's fine.
 12 Q. Okay. And do you have the original or does --
 13 A. Either me or Erik has it.
 14 Q. Okay. Erik may have it. Okay. All right.
 15 And we may -- I think we're going to request the
 16 original to make sure that we have the best copy
 17 available, but I want to -- I want to go back and look
 18 at the description here for the 10 -- quantity 10 signs
 19 that was -- that was acquired. And, again, this is back
 20 in, I believe, the 1998 time frame.
 21 It says here, it looks like, "P-113, 18 by 24
 22 Steel Sign Panels." Do you see that?
 23 A. Yes.
 24 Q. Okay. It says, "White background," and then I
 25 believe it says, "w/," which I would -- would you agree

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1 with me that that stands for "with" or is it a shortened
 2 designation for "with"?
 3 A. I wouldn't know.
 4 Q. Okay. And then it's followed by what appears
 5 to be "R/M red and blue" or -- and an "e," little "e"
 6 with a line through it, "blue." Do you see that?
 7 A. Yeah. I see what you read, yes.
 8 Q. Okay. Does this refresh your recollection as
 9 to any discussion that may have occurred between Realty,
 10 Etc. and Ad-Mar regarding the RE/MAX red and blue
 11 colors?
 12 A. I don't recall, no.
 13 Q. What does the -- what does the R/M stand for
 14 in your mind?
 15 A. I don't know. Ask Ad-Mar. I have no idea.
 16 They put it in there, not me.
 17 Q. Okay. But when you received this document,
 18 what did you understand it to mean?
 19 A. I don't recall.
 20 Q. You don't recall?
 21 A. No.
 22 Q. Is there any explanation as to what the R/M
 23 means in this context?
 24 A. Honestly, the first time I -- you brought it
 25 to my attention here was earlier today.

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1 Q. Okay.
 2 A. I didn't recall seeing this ever before.
 3 Q. All right. Abraham, what I think this means
 4 is, is that it says, "White background" -- and this
 5 is what I believe it says -- "with RE/MAX red and blue."
 6 Do you have any reason to disagree with me that that's
 7 what it -- that's what it says?
 8 A. If I have to guess, I -- I'd say no.
 9 Q. You don't think it says that?
 10 A. I don't know. Why would it say RE/MAX?
 11 Q. Well, the reason it would say RE/MAX is
 12 because it has the RE/MAX red and blue colors on the
 13 proposed sign.
 14 A. If I have to guess, I'd say no. It's not the
 15 same colors.
 16 Q. Okay.
 17 A. Are they the same colors?
 18 Q. What does the R/M stand for in this context?
 19 A. I don't know. Like I said, I just noticed
 20 that when you brought it to my attention earlier before
 21 lunch.
 22 Q. Right.
 23 A. I've never noticed that before.
 24 Q. It says underneath that -- I mean, it says
 25 underneath that, "Imprint: Per Customer

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1 there, where you used the RE/MAX agents. Were you using
 2 a logo or a particular name to sell your properties?
 3 A. I might. I can't remember.
 4 Q. Okay. So -- but do you remember using a name?
 5 I mean, it doesn't appear that you used Realty, Etc.
 6 until 1998; right?
 7 A. Yeah. I don't remember. I don't recall that
 8 far back.
 9 Q. Would you have used the logo with a different
 10 name before Realty, Etc.?
 11 A. I don't know.
 12 Q. So is there anything you can review to refresh
 13 your recollection?
 14 A. No.
 15 Q. So you don't know if you used the logo prior
 16 to using it as part of Realty, Etc.; correct?
 17 A. I can't remember. I don't recall.
 18 Q. You just -- you don't know if you used it
 19 prior to that date or not?
 20 A. I don't know.
 21 Q. Do you have an understanding of why this date
 22 of first use is December 1996?
 23 A. I don't know.
 24 Q. Do you recall reviewing your records to
 25 confirm that as the first use date?

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1 A. No, I don't recall.
 2 Q. Is there anything particular about December
 3 1996 that -- that rings a bell with you about December
 4 of 1996? Were you in the Houston area?
 5 A. Yes. I -- I was selling Christmas trees,
 6 seriously, in the tents. I did like 10 different spots
 7 of them. It was a great season. We had some money, we
 8 bought a bunch of trees and that's what we did for the
 9 season. It was great.
 10 Q. I mean, you -- I don't remember what date you
 11 said that you started Pavnouty Enterprises.
 12 A. Oh, this was -- I was selling it for somebody.
 13 It was a friend of mine.
 14 Q. Okay.
 15 A. I was just helping him financially on the
 16 background, backing him up a little bit.
 17 Q. Right.
 18 A. It was -- never do it again, but it was fun.
 19 Q. I mean, would this -- would this usage have
 20 been associated with the enterprises company?
 21 A. No, not at all.
 22 Q. No?
 23 A. You just asked me about December of '96 --
 24 Q. Right.
 25 A. -- and that's what I was -- just remember

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1 that.
 2 Q. Okay.
 3 A. Otherwise, no.
 4 Q. So you don't have any explanation for --
 5 A. I don't recall.
 6 Q. -- that particular date?
 7 A. No. I don't recall why this day is there.
 8 Q. Okay. All right. So the -- there's a
 9 description of the trademark here. It says, "The color
 10 red appears in the top portion of the rectangle. The
 11 color white appears in the stylized representation of a
 12 house and the color blue appears in the blue in the
 13 bottom rectangle." Do you see that?
 14 A. Yes.
 15 Q. Do you agree with that representation of the
 16 mark?
 17 A. Yes.
 18 Q. Have you ever attempted to register the logo
 19 with the State of Texas?
 20 A. No.
 21 (Exhibit Nos. 16 and 17 marked.)
 22 Q. (By Mr. Posthumus) All right. You've been
 23 handed what's been marked as Abraham Exhibits 16 and 17.
 24 I'm going to ask you if you can identify these
 25 documents.

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1 A. It's a lot -- a lot of writing. Let's see.
 2 "Your use of design similar to RE/MAX marks." A letter
 3 to Ms. Miller from RE/MAX International, April 18, '06.
 4 Q. Do you recall seeing this letter dated April
 5 18, 2006, sometime after -- soon after the -- the --
 6 that date, that particular date?
 7 A. Yes.
 8 Q. How did -- how did -- describe, if you recall,
 9 the circumstances of having learned about this
 10 particular letter.
 11 A. We got -- Debbie got this letter. She showed
 12 it to me and we know that we are far off of similarity
 13 and we left it alone.
 14 Q. Okay. So it appears, reviewing Exhibit 17,
 15 that at some point you retained Erik Pelton after
 16 receiving the April 18, 2006 letter?
 17 A. Yes.
 18 Q. Okay. So -- but this particular letter to
 19 Deborah Miller, you retained Mr. Pelton and Mr. Pelton
 20 responded to the letter. Would that be accurate?
 21 A. I'm sure.
 22 Q. No, is that --
 23 A. Yes.
 24 Q. Is that your recollection?
 25 A. Yes.

55 (Pages 214 to 217)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RE/MAX INTERNATIONAL, INC.)
)
Plaintiff,)
)
)
)
)
VS.) CIVIL ACTION NO.
) 4:07-CV-02426
TREND SETTER REALTY, LLC,)
A Texas Limited Liability)
Company;)
)
PAVNOUTY ABRAHAM, an)
individual; and)
)
DEBORAH N. MILLER, an)
individual,)
)
Defendants.)

ORAL DEPOSITION OF PAVNOUTY ABRAHAM
MAY 29, 2008
VOLUME 2 of 2: PGS. 235-345

ORAL DEPOSITION OF PAVNOUTY ABRAHAM, produced as a
witness at the instance of the PLAINTIFF AND
COUNTERDEFENDANT, RE/MAX INTERNATIONAL, INC., and duly
sworn, was taken in the above-styled and numbered cause
on the 29th day of May, 2008, from 9:23 a.m. to 11:52
a.m., before Misty Fondren Clements, CSR in and for the
State of Texas, reported by machine shorthand, at the
Law Offices of Greenberg Traurig, L.L.P., 1000 Louisiana

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1 PAVNOUTY ABRAHAM,
2 having been first duly sworn, testified as follows:
3 EXAMINATION
4 (Continued)
5 BY MR. POSTHUMUS:
6 Q. I will remind you that you are still under
7 oath.
8 A. Right.
9 Q. Okay. Let's -- I'd like to pick up with
10 the -- when you started Trend Setter and go through a
11 little bit of the history of Trend Setter.
12 A. Okay.
13 Q. And I believe you -- just to -- just so the
14 record's clear and to kind of remind ourselves, you
15 opened the doors of Trend Setter on April 1st, 2005;
16 correct?
17 A. Well, yes.
18 Q. Or -- or about that time?
19 A. About that time, yes.
20 Q. Yes. And so do you have -- in terms of -- of
21 a general history of Trend Setter, do you have an
22 understanding of the number of agents, just generally,
23 and I'm not talking about an exact number, but the
24 growth of the number of agents that Trend Setter has had
25 over -- let's say, on a yearly basis or on some type of

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1 periodic basis?
2 A. Well, I would say three years, we have 700,
3 divided by 3, it's about a couple of hundred agents a
4 year --
5 Q. So you've --
6 A. -- or so.
7 Q. So would it be accurate then, just generally
8 speaking, to say that at the end of '06 you had
9 approximately 200 agents?
10 A. End of?
11 Q. End of '07 you had about 400 agents -- I'm
12 sorry. The end of '05 you had about 200 agents?
13 A. End of '05 we had about, yeah, 150 to 200.
14 Q. And then at the end of '06 you had?
15 A. If I have to guess, 200 to 400.
16 Q. And then the end of '07?
17 A. 400, 600.
18 Q. Okay. Now, the does the company Trend Setter,
19 the L.L.C. Trend Setter, does that entity file tax
20 returns?
21 A. Yes.
22 Q. And does -- and then you file tax returns as
23 the -- the member of that L.L.C. or the only member of
24 that L.L.C.?
25 A. Yes.

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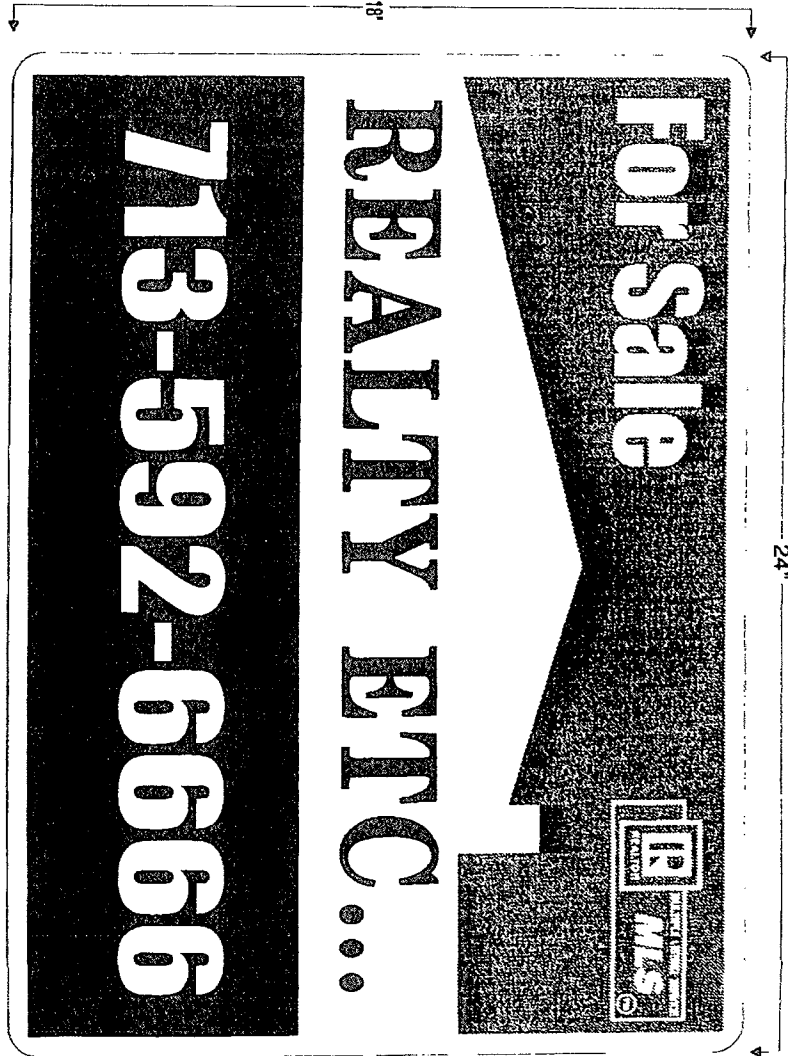
1 Q. Okay. And so in terms of -- of -- the first
2 tax return would have been for the year '05; would
3 that -- is that accurate?
4 A. Yes.
5 Q. Okay. Do you recall what the -- the net
6 income of Trend Setter was at the end of '05?
7 A. No.
8 Q. Do you recall what the net income of Trend
9 Setter was at the end of '06?
10 A. No.
11 Q. What about at the end of '07?
12 A. No. I haven't done '07 yet.
13 Q. Okay. Haven't finished '07?
14 A. I haven't finished it, no.
15 Q. Okay. Do you have an accounting firm that
16 does your tax returns?
17 A. I gather everything together and I take them
18 to an accounting firm at the end of the year, but I file
19 my own extensions and so on.
20 Q. Okay. So who prepared your tax return or
21 Trend Setter's tax return for the end of '05 or for year
22 '05?
23 A. I don't remember. I used several different
24 accounting firms. I don't remember exactly who did '05
25 or '06. I used several different companies. I don't

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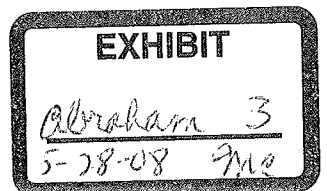
1 know who did it.
2 Q. Do you recall if the -- if the Trend Setter
3 posted any type of profit for '05?
4 A. I can't answer that.
5 Q. You don't know?
6 A. No, I don't know.
7 Q. Who would know that?
8 A. I would know that once I look at my
9 financials. I don't have them with me and I can't
10 remember.
11 Q. Okay. So you didn't review the financial
12 documents prior to coming to the deposition today?
13 A. I did. There's so much of it. I know profit
14 wise, we didn't -- the first couple of years we didn't
15 have a lot of profit, but then '07, I haven't really got
16 it all together yet.
17 Q. Okay. But what about -- I'm trying to get a
18 general number for '05 and '06. I mean, do you know --
19 do you have a sense of it? Is it -- was it -- you
20 didn't report a loss. Let's talk about it this way. In
21 '05 Trend Setter did not report a loss; is that correct,
22 or did they?
23 A. I didn't say that.
24 Q. Okay.
25 A. No, I don't know.

3 (Pages 240 to 243)

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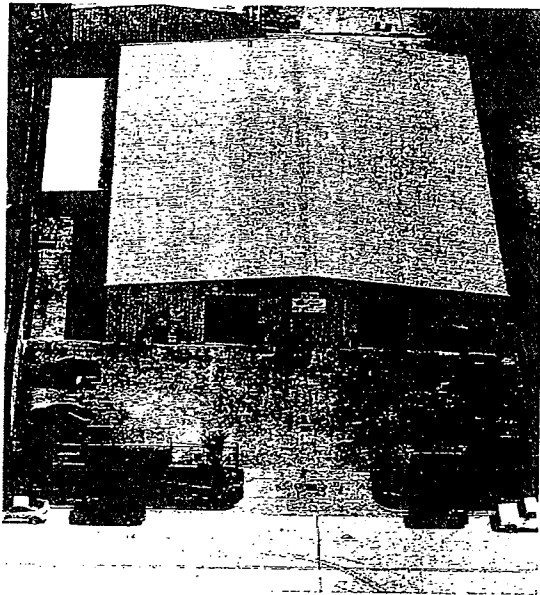
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